SJS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS				DEFENDANTS	3			**	
JEFFREY AND AMY M	MANSFIELD			REDLINE REC		SERVICES, I	LLC	1	
(b) County of Residence of	of First Listed Plaintiff		,	County of Residence	e of First Lis	ted Defendant			
(c) Attorney's (Firm Nam Craig Thor Kimmel, E Kimmel & Silverman,		umber and Email Add	ress)		ND CONDE D INVOLVEI	ANATION CASES, U.).	SE THE LOCATI	ON OF T	НЕ
30 E. Butler Pike Ambler, PA 19002	F.O.			Attorneys (If Known)					
(215) 540-8888			+						
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VI. CAUSE OF ACTIO	N Brief description of ca								
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	2010			·					

Case 2:10-cv-01791-JS Document 1 Filed 04/22/10 Page 2 of 25

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to assignment to appropriate calendar.	o be used by counsel to indicate the category of the case for the purpose of
Address of Plaintiff: 234 Marshall Street Pe	erkasie PA 18944
Address of Defendant: 95 John Muir Drive, Am	herst New York 14228
Place of Accident, Incident or Transaction: 234 Marshall Stre	et Perkasie PA 189UKI
(Use Reverse Side For	
Does this civil action involve a nongovernmental corporate party with any parent corporation	and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.16	
Does this case involve multidistrict litigation possibilities?	Yes□ No X
RELATED CASE, IF ANY: Case Number: Judge	B 4
Judge	Date Terminated:
Civil cases are deemed related when yes is answered to any of the following questions:	
1. Is this case related to property included in an earlier numbered suit pending or within one	year previously terminated action in this court? Yes No Y
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior action in this court?	suit pending or within one year previously terminated
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3. Does this case involve the validity or infringement of a patent already in suit or any earlier	
terminated action in this court?	Yes□ No♥.
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rigi	hts case filed by the same individual?
	Yes□ No 🗘
CIVIL: (Place ✓ in ONE CATEGORY ONLY)	
A. Federal Question Cases:	B. Diversity Jurisdiction Cases:
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2. □ FELA	2. Airplane Personal Injury
3. □ Jones Act-Personal Injury	3. □ Assault, Defamation
4. □ Antitrust	4. ☐ Marine Personal Injury
5. Patent	5. Motor Vehicle Personal Injury
6. □ Labor-Management Relations	6. Other Personal Injury (Please
•	specify)
7. □ Civil Rights	7. Products Liability
8. D Habeas Corpus	8. Products Liability — Asbestos
9. Securities Act(s) Cases	•
10. Social Security Review Cases	9. All other Diversity Cases
11. X All other Federal Question Cases 15 U.S. C § 169 2	(Please specify)
(Please specify) ARBITRATION CERT	TEICATION
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Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and \$150,000.00 exclusive of interest and costs;	belief, the damages recoverable in this civil action case exceed the sum of
□ Relief other than monetary damages is sought.	
DATE: 4/21/2010 Craig Ther Kmmel	57100
Attorney-at-Law	Attorney I.D.#
NOTE: A trial de novo will be a trial by jury only if the	πe nas oeen comphance with F.R.C.P. 38.
I certify that, to my knowledge, the within case is not related to any case now pending or	within one year previously terminated action in this court
except as noted above.	
DATE: 412112010 raing Thur Kimmel	57100
Attorney-at-Law	Attorney I.D.#
COL 600 16 (00)	

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

Jeffrey and A	Amy Mansfield:	CIVIL ACTION	
Redline Recover	y Services, LLC	NO.	
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(f) Standard Management -	- Cases that do not fall into any	one of the other tracks.	X
4/21/2010 Date	Craig TherKimmel Attorney-at-law	Jeffrey and Amy Mans Attorney for	freid
215) 541-8888	(215) 540-8817	_ Kimmel@ Creditlaw.	com
<u>Fel</u> ephone	FAX Number	E-Mail Address	

(Civ. 660) 10/02

1 **SUNITED STATES DISTRICT COURT** FOR THE 2 EASTERN DISTRICT OF PENNSYLVANIA 3 JEFFREY AND AMY MANSFIELD, 4 Plaintiff, 5 Civil Action No.: v. 6 COMPLAINT AND DEMAND FOR JURY REDLINE RECOVERY SERVICES,LLC TRIAL 7 Defendant. (Unlawful Debt Collection Practices) 8 9 10 11 <u>COMPLAINT</u> 12 JEFFREY AND AMY MANSFIELD ("Plaintiffs"), by their attorneys, KIMMEL & 13 SILVERMAN, P.C., alleges the following against REDLINE RECOVERY SERVICES, LLC: 14 15 INTRODUCTION 16 1. Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, 15 17 U.S.C. § 1692 et seq. ("FDCPA"). 18 19 **JURISDICTION AND VENUE** 20 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states 21 that such actions may be brought and heard before "any appropriate United States district court 22 without regard to the amount in controversy," and 28 U.S.C. § 1367 grants this court 23 supplemental jurisdiction over the state claims contained therein. 24 3. Defendant conducts business in the Commonwealth of Pennsylvania and 25 therefore, personal jurisdiction is established. -1-

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- 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).
- 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

PARTIES

- 6. Plaintiffs are natural persons residing in Perkasie, Pennsylvania.
- 7. Plaintiffs are both a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
- 8. Defendant, REDLINE RECOVERY SERVICES LLC, is company handling debt collection matters with headquarters located at 95 John Muir Drive, Amherst, New York, 14228.
- 9. Defendant is a debt collector as that term is defined by 15 U.S.C. §1692a(6), and sought to collect a consumer debt from Plaintiffs.
- 10. Defendant acted through their agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

- 11. Beginning in or around September or October 2009, Defendant began to repeatedly call the Plaintiff at home and at work regarding an alleged debt owed to FIA Card Services, N.A.
- 12. Telephone calls were placed in excess of two times a day, ten times a week, and twenty times in a given month. See a phone log generated from Plaintiff's telephone records attached hereto as Exhibit "A".
- 13. On some days Defendant called Plaintiff in excess of five times. See Exhibit "A".
- 14. Telephone calls were also placed during weekends and at places known to be inconvenient to the Plaintiffs, including Plaintiffs' places of employment and to telephone numbers of family members, who are not alleged debtors. See Exhibit "A".

- 15. Defendant's representatives were rude to co-workers and family members of Plaintiffs, and disclosed personal information without the prior approval of Plaintiffs.
- 16. During these conversations Defendant threatened to garnish Plaintiffs' wages, seize their property and/or "freeze assets" if payment was not made.
 - 17. As there was no valid judgment in this matter, these actions could not be taken.
 - 18. Defendant also sent written correspondence to Plaintiffs.
- 19. In or around October 6, 2009, Defendant caused a letter to be sent to Plaintiffs residence. A true and correct copy of Defendant's letter dated October 6, 2009 is attached hereto as Exhibit "B".
- 20. This introductory language of this letter overshadows the rights that are required to be set forth in such correspondence, specifically Plaintiffs right to dispute the validity of the debt and/or to seek verification of the debt. See Exhibit "B".
- 21. The introductory language of the letter addresses actions which Defendant may take against Plaintiff if not paid, i.e. "forwarding your account to [FIA Card Service N.A.'s] lawyers to review for potential litigation or arbitration[.]". See Exhibit "B".
- 22. Plaintiffs disputed the amount of the debt owed, however feeling they had no choice and worrying about a garnishment and/or seizure of their property, Plaintiffs entered into a payment plan with Defendant via telephone.
- 23. Under the terms of the payment plan Plaintiffs agreed to pay \$8,600.00 of the alleged \$14,325.35 debt owed over the course of four months and Defendants agreed to waive the alleged balance owed.
 - 24. Plaintiffs commenced making payments during that time period.
- 25. Defendant sent Plaintiffs a second letter on October 26, 2009. A true and correct copy of the October 26, 2009 letter is attached hereto as Exhibit "C".

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- 26. This letter sets forth the payment plan agreed to between the parties, but fails to advise the Plaintiffs of any rights they may have. See Exhibit "C".
- 27. On or about October 31, 2009, Plaintiffs sent a first payment to Defendant in the amount of \$2,158.00.
- 28. On or about November 30, 2009, Plaintiffs sent a second payment to Defendant in the amount of \$2,200.00.
- 29. However, Defendants reneged on the deal before the four month period was complete and advised Plaintiffs the full balance was due and owing and the agreement was "void".
- 30. Defendant's representatives also advised Plaintiffs that if they failed to pay the full balance the portions that were paid, approximately \$4,300.00, would be "out the window."
 - 31. During this time period, Defendants repeat telephone calls continued.
- 32. On or about January 8, 2010 Plaintiffs sent to Defendant a letter advising it that Plaintiffs considered their frequent calls abusive and harassing and requested that Defendant cease all further communications with Plaintiffs. A true and correct copy of Plaintiffs' January 8, 2010 letter is attached hereto as Exhibit "D".
 - 33. Despite this request, the repeated and harassing telephone calls continued.

CONSTRUCTION OF APPLICABLE LAW

34. The FDCPA is a strict liability statute. <u>Taylor v. Perrin, Landry, deLaunay & Durand</u>, 103 F.3d 1232 (5th Cir. 1997). "Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages." <u>Russell v. Equifax A.R.S.</u>, 74 F. 3d 30 (2d Cir. 1996); <u>see also Gearing v. Check Brokerage Corp.</u> 233

F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector's legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

- 35. The FDCPA is a remedial statute, and therefore must be construed liberally in favor of the debtor. Sprinkle v. SB&C Ltd., 472 F. Supp. 2d 1235 (W.D. Wash. 2006). The remedial nature of the FDCPA requires that courts interpret it liberally. Clark v. Capital Credit & Collection Services, Inc., 460 F. 3d 1162 (9th Cir. 2006). "Because the FDCPA, like the Truth in Lending Act (TILA) 15 U.S.C §1601 et seq., is a remedial statute, it should be construed liberally in favor of the consumer." Johnson v. Riddle, 305 F. 3d 1107 (10th Cir. 2002).
- 36. The FDCPA is to be interpreted in accordance with the "least sophisticated" consumer standard. See Jeter v. Credit Bureau, Inc., 760 F.2d 1168 (11th Cir. 1985); Graziano v. Harrison, 950 F. 2d 107 (3rd Cir. 1991); Swanson v. Southern Oregon Credit Service, Inc., 869 F.2d 1222 (9th Cir. 1988). The FDCPA was not "made for the protection of experts, but for the public that vast multitude which includes the ignorant, the unthinking, and the credulous, and the fact that a false statement may be obviously false to those who are trained and experienced does not change its character, nor take away its power to deceive others less experienced." Id. The least sophisticated consumer standard serves a dual purpose in that it ensures protection of all consumers, even naive and trusting, against deceptive collection practices, and protects collectors against liability for bizarre or idiosyncratic interpretations of collection notices. Clomon, 988 F. 2d at 1318.

COUNT I <u>DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT</u>

37. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

24

- Communicating with Plaintiffs places known to be inconvenient to Plaintiff, specifically repeatedly contacting Plaintiffs at their places of employment and telephone numbers for family members, in violation of 15 U.S.C. § 1692c(a)(1).
- b. Communicating with third parties without prior consent of the consumer, in violation of 15 U.S.C. § 1692c(a)(4).
- c. Failing to cease communications upon request, in violation of 15 U.S.C. § 1692c(a)(5).
- d. Harassing, oppressing or abusing Plaintiffs in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.
- e. Causing Plaintiffs' telephone to ring repeatedly or continuously with intent to annoy, abuse, or harass him, in violation of 15 U.S.C. § 1692d(5).
- f. Misrepresenting the amount of the debt and failing to provide an explanation as to how the debt increased, in violation of 15 U.S.C. § 1692e(2).
- g. Threatening to seize Plaintiffs' property, in violation of 15 U.S.C. § 1692e(4).
- h. Threatening to garnish Plaintiffs' wages, in violation of 15 U.S.C. § 1692e(4).
- Threatening to take actions which can not legally be taken, in violation of 15 U.S.C. § 1692e(5).
- Using other false or deceptive means to collect a debt, in violation of 15 U.S.C. § 1692c(a)(10).

- k. Using unfair or unconscionable means to collect or attempt to collect any debt, in violation of 15 U.S.C. §1692f.
- 1. The collection of additional amounts not expressly authorized, in violation of 15 U.S.C. §1692f(1).
- m. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

WHEREFORE, Plaintiffs, JEFFREY AND AMY MANSFIELD, respectfully prays for a judgment as follows:

- a. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for each violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

1	DEMAN	D FOR JURY TRIAL
2	PLEASE TAKE NOTICE that P	laintiffs, JEFFREY AND AMY MANSFIELD, demand
3	a jury trial in this case.	
4	4	
5	5	RESPECTFULLY SUBMITTED,
6	DATED: April 21, 2010	KIMMEL & SILVERMAN, P.C
7	7	
8	3	By: /s/ Craig Thor Kimmel
9		Craig Thor Kimmel Attorney ID # 57100
10		Kimmel & Silverman, P.C. 30 E. Butler Pike
11	1	Ambler, PA 19002 Phone: (215) 540-8888
12	2	Fax: (215) 540-8817 Email: <u>kimmel@creditlaw.com</u>
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Case 2:10-cv-01791-JS Document 1 Filed 04/22/10 Page 14 of 25

Answered 1:00	Unknown		Sat 1/16/10	7:43 PM
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		\$ x440.0040 4. INT		Wed 12/30/09	3:08 PM
	. 1.	· 	THE REPORT OF THE PARTY OF THE	Wed 12/30/09	3:28 PM
	NETN	ET SRVC	(716) 250-4800	Wed 12/30/09	4:11 PM
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T ANSV	vered i	!00	NET	NET	SRVC	(716) 250	4800	Tue 12/22/09	4:06 PM
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	•		F	Redline Recove	n/ Services	HC	:	
	1		ļ-	95 John	Muir Dr.		:	
			ĺ	Amherst NY	14228-114	4		
				1-716-2	50-4800			
!	_ Date: October 6, 2009				Δ	Daniel Out all	ELECARD OFFICIAL	
					Çu Rei	ance: \$14,325	FIA CARD SERVICES, N	I.A. :
İ	JEFFREY C MANSFIELD			·	Ret	erence: 48889	920011492475	
1	234 MARSHALL ST				Aoc	ount ID: B310	6783	
	- PERKASIE PA:18944-1441	1				1	: · · · · · · · · · · · · · · · · · · ·	
	Dear Jeffrey C Mansfield:							
i								i .
	Your account is seriously past of the Balance identified above.	ue ar	id FIA (CARD SERVICE	FS.N.A. ha	s authorized u	e to initiate collection offe	da ta sassassas
					count to the	ir lawyers to re	view for potential litigation	orarbitration
i	as provided for in your card hol	der aç	greeme	nt.		,	1	
: :	No one has yet submitted the ne this account, however, if you con	cessa	rv pape	mvork to file a lit	igation or a	hitration alaim	handanter. No stands	
				ect vour obligati	on verv mu	th longer FIA C	ABD SERVICES N.A. (as	nas reviewed
. 105 11	your account to a collection law	firm.	. [·	ends to send
	We take pride in assisting our or	i thi a mar		 	40		:	:: 1
	We take pride in assisting our cu with one of our representatives, - Thursday 8:00AM - 9:00PM F	nleas	a call	spoive meir situa	ilions, il yo	nave any que	estions or wish to discuss	your account
	- Thursday 8:00AM - 9:00PM E	ST: Fr	ridav 8:	00AM - 4:30PM	EST: Satu	0-300-4200 ()L irday 0-00AM	inng normal business hol	ırs. (Monday
	The state of the s	1 E					· · · · · · · · · · · · · · · · · · ·	* : :
	As of the date of this letter, you o	we \$1	4,325.	35. Because of	interest, lat	e charges, and	l other charges that may v	ary from day
	be necessary after we receive adjustment. For further informa						tempt to contact you aga	in about the
' '	trajamenta i et lateror mornia		THE U	a mundialAllen c	n can i.obc	7-300-4208	:	4
	Unless you notify this office with thereof, this office will assume the	in 30	days a	fter receiving th	is notice th	at vou dispute	the validity of this debt or	any portion
1	thereof, this office will assume the you dispute the validity of this dispute the validity of	is deb	otis val	id. If you notify t	this office in	writing within	30 days from receiving thi	snotice that
	receiving this notice this office w creditor.	iii bi ov	vide yo	n with the hattle	ano aogre	ss of the origin	al creditor, if different fron	the current
İ			ļ					
	You can pay this account by vis	iting (bur wel	osite, www.redii	inepaymeni	.com, by calling	nd us and paving by pho	De or make
-	payment by mail, enclosing the b	ottom	boution	of this letter. F	lease send	your payment	or correspondence to the	processing
i	center listed below. Please incli	ice yo	,u, , 100	Jan. 12, 20100	A COST ANITH ST	r payments an	d correspondence.	
Ì			P	AYMENT PRO	CESSING (CENTER	I :	: :
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	This is an attempt to collect a del a debt collector.	ot and	any ini	ormation obtain	ied will be i	ised for that no	mose. This is a commun	cation from
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	PLEASE OF	TACH H	ERE AND	RETURN WITH YOU	O DAVACAT I			PLO4I-RRS
	PO Box 177		_,,_,,	TENOTINE WITH TOO			i	
	Sanborn, NY 14132-0177			'	Curre	int Creditor: FI	A CARD SERVICES, N.A	/ -1
i			.			ice: \$14,325.3		
				1	Leiel	ence: 488892	0011492475	i i
	Account ID: B3106783				PA	THIS	005.05	
	Date: October 6, 2009				(AM	OUNT \$14	,325.35	
	If paying by Credit Card, pla	Parkets area		T Designation in the second		1		
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	Case 2.10-cv-01	19T+12	Document 1	. Filed 0	14/22/10 Pa	ige 24 oi 25	
	Date: October 26, 2009	Redline	Recovery		STATEMENT	<u>.</u>	
 	AMY L AND JEFFREY C MAN 234 MARSHALL ST PERKASIE PA 18944-1441			į (Account Summ	nary or: FIA CARD SERVICE 8920011492475	S, N.A.
	Dear Amy L and Jeffrey C Mar	sfield:		É	3alance: \$14,3	25.35	
	Per our agreement, your chec 10/31/2009. Please ensure the	k (or credit it funds are	card payment) available so the	in the amo at your payı	unt of \$2,158.0 ment is not reje	D)will be deposited (or poted.	processed) on
	iThis is an attempt to collect a d a debt collector.	bt and any	information obt	tained will b	e used for that p	purpose. This is a comm	unication from
			PLEASE	RESPOND		;	
	TELEPHONE: 1-866-388	4208		HEO! OND		2600	
	Pay online by check or cre	dit card at	www.redlinepay	/ment.com.			
v	Please include your Account REDLINE RECOVERY SE	int ID, B310 RVICES, L	96783, with all p LC., 11675 RA	ayments ar INWATER I	nd corresponde DR STE 350, A	nce sent to: LPHARETTA GA 30009	-8693
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	PO Box 177 Sanborn, NY 14132-0177	. ,	,		ATEMENT		
					ccount Summa	FIA CARD SERVICES	N. A.
	Date: October 26, 2009			Re	terence: 48889	920011492475	, N.A.
	If paying by Credit Card, pla			Ba	count ID: B310 lance: \$14,325		
.	SIGNATURE :	- AMOUNT	CVV # (3 or 4 Dig codo on Back di Card)	/t ·	m		
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	AMY L AND JEFFREY C MANS	FIELD	(SAE22)	,		- A 1 5 / 21 S	-
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··: į	T (CO.)				MIE I		
	215 721 3489 ` P.09/10		c	HEEL/SAA		Z-2010 10:43	Z-NAL

Date: 1/0/2010

Agency: Red line Recovery

Address: Pubox 177, Scenborn NY 14132-0177

Account No.: 33104783

To Whom It May Concern:

I have received numerous harassing, rude, and abusive phone calls. The callers have been threatening to me or my family members. I have learned that these calls are in violation of state of the state of Pennoulvania and federal telephone harassment laws. including Section 223 of Title 47 of the United States Code.

It is actually a criminal as well as civil offense to make repeated harassing calls to me at home or work. I realize that my creditors have the right to comect me to inquire about the status of my account, but they must do so in a decent and civilized manner. This does not apply to friends or family members. You may no longer contact my relatives, friends, or anyone at my place of employment. Please remove any contact information you have in your databases regarding these people at once.

I have learned about the difference between a "collector" and a "creditor." Creditors have the right to call and inquire, they do not have the right to harass and abuse. And they do not have the right to contact my place of coupleyment, family, or friends now that I am specifically stating this in writing. The fact that you start with a business purpose does not protect you from telephone harassment laws if you do not conduct yourself in a professional manner.

Since I have already told you that I do not have the means to pay all of my obligations, it is abusive for you to call me repeatedly. If I started the day without the money to pay whatever may be due to the bank, it's not likely I'm going to have it by mid-afternoon. And if you called me twice yesterday, you know that I won't have the money today. You are simply harassing me.

Enough is enough. Do not call me more than once a week. Do not call my friends, family or my place of comployment. I am keeping a log of your calls. If you continue to annoy, abuse, and harass me I will report you to the authorities, including the Office of the Comptroller of Currency, the Federal Reserve Board, and the State Attorney General.

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70:45 184-22-2010